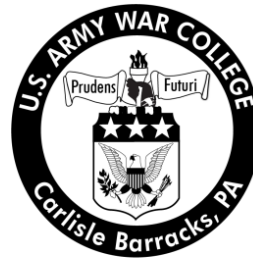


Civilian Research Project USAWC Fellow

Somalia Piracy: Challenges and Solutions

by

Colonel Robin L. Williams
United States Army



United States Army War College
Class of 2013

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Somalia Piracy: Challenges and Solutions

Maritime piracy attacks on international shipping and private vessels off the coast of Somalia have attracted worldwide media attention. In the last five years high profile hijackings along the Somalia coast and Gulf of Aden have sharpened the focus of the United States and its international partners on the long-standing, yet serious problem of maritime piracy. Throughout history piracy has plagued the world's waterways; however, Somalia piracy has emerged as a continuing global threat to maritime security. The oceans and inland waterways, which surround the African Continent, are the maritime gateways of global commercial shipping of imported and exported goods.¹ It is of international strategic importance because of the importance of the sea lanes off the Somalia coast (roughly 30% of European energy needs, and manufactured goods from China and Asia pass through the Gulf of Aden).² We are an interconnected global society supported by a global economy – and that economy simply cannot function if the world's oceans are not safe and secure for maritime commerce.³

Piracy Definition

The United Nations Convention on the Law of the Sea (UNCLOS) defines piracy as: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any state; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in the subparagraph (a) or (b).⁴

The term “Somalia Piracy” refers to the activities of Somalia-based groups who aim to generate income by attacking ships at seas. Somalia pirates are not formally linked to any government and their victims are mostly foreign commercial vessels sailing in the Gulf of Aden or in the Western Indian Ocean.⁵

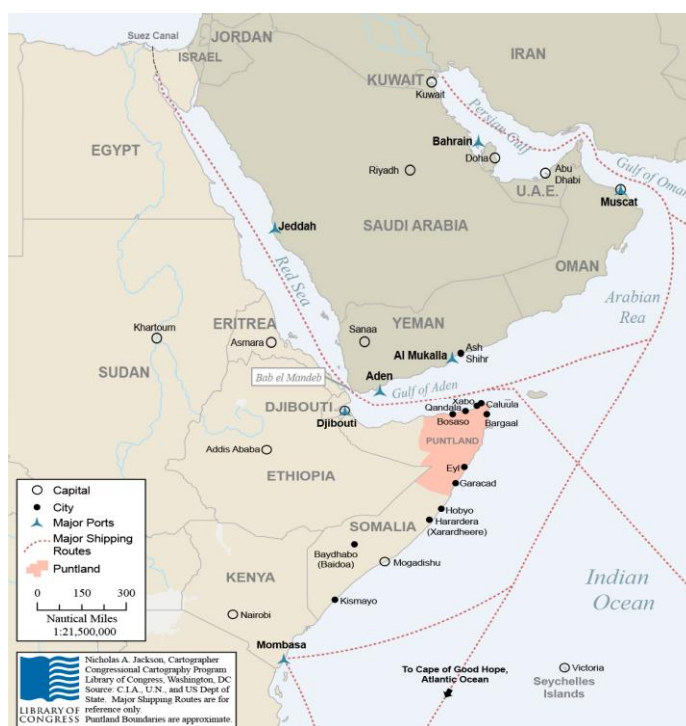
Somalia Piracy

Piracy in Somalia is a symptom of a failed state. Somalia has endured perpetual economic, social, and political upheaval for nearly 23 years. In the absence of a strong central government capable of enforcing the rule of law, the environment in Somalia is conducive for violent crime such as piracy. Many Somalis feel piracy emerged because foreigners were illegally fishing and dumping toxic waste in Somali territorial waters. In Mary Harper’s book, *“Getting Somalia Wrong,”* she stated that the Somalia pirates she interviewed take great offense to being labeled “pirates.” They prefer to describe themselves as “coast guards” protecting their coastline from foreign trawlers stealing their fish, asserting that any vessels caught in their waters will be fined.⁶ Also, they refer to their tactics as modern day *“Robin Hood,”* stealing from the rich to give to the poor. Despite their legitimate concerns of illegal fishing and toxic waste dumping in their waters, Somali pirates are purely motivated by money. This is evident by the types of vessels attacked. If really concerned with illegal fishing, Somalia’s “pirates or coast guards,” should only attack foreign fishing trawlers, not cargo ships, yachts and oil tankers. Many fishermen have either volunteered or been unable to resume their livelihood, so they become pirates. In 2009, ransom payments reached an average of \$1,000,000 to \$2,000,000.⁷ The potential danger of death or imprisonment does little to deter piracy, given the likelihood of earning a huge payout, which exceeds average

annual incomes. Somalia's GDP is approximately \$600 per capita and an individual pirate can collect payment up to \$10,000 dollars for one successful operation.⁸ It is obvious that money is the primary motivating factor of increased piracy activities in Somalia. The November 2008 United Nations (UN) report indicates poverty, lack of employment, environmental hardships, pathetic low incomes, reduction of pastoralist and maritime resources due to drought and illegal fishing, and the volatile security and political situation all contribute to the rise and continuance of piracy in Somalia.⁹

Somalia pirate groups are organized predominately along clan lines and based in remote port towns along the coast of Somalia. The March 2009 UN Secretary General report identified two primary pirate groups in Somalia. One pirate network is based in the Northern Puntland region district of Eyl and the other pirate network is based in the Southern Mudug region of Harardera (Xarardheere). Smaller pirate networks operate along the coastal ports of Bosaso, Qandala, Caluula, Bargaal, Hoboyo, Mogadishu, and Garad.¹⁰ Each group has different capabilities and methods to operate, but as a whole, the pirates conduct operations primarily along Somalia's 2,300 mile coastline and in 2.5 million nautical square miles of ocean.¹¹ Some groups have developed sophisticated operational capabilities with modern equipment and increased firepower aboard their vessels. A typical Somalia pirate team consists of 5 men operating small, lightweight skiffs equipped with outboard motors and armed with AK47 rifles and rocket propelled grenade launchers (RPGs). Despite operating with skiffs, pirates have successfully targeted larger, slower moving tankers, cargo ships, personal yachts, barges, tugboats and cruise ships which travel under 15 knots.¹²

Figure 1. The Horn of Africa, Surrounding Waters, and Key Locations



Source: Congressional Cartography Program, Library of Congress, adapted by CRS graphics¹³

Impact of Somalia Piracy

The strategic location of the Horn of Africa (HOA) increases its importance for international security and commerce. The northern coastline of Somalia lies to the south of the Gulf of Aden, a key transit zone for ships passing to and from the Red Sea; the Indian Ocean off the southeast coast of Somalia is one of the busy shipping lanes for trade between Asia and East Africa.¹⁴ Although Somalia piracy can be debated as a regional based criminal activity, its consequences are felt by many countries in the international community. In today's economy, the ocean serves as a global maritime link to allow all countries to participate in the global marketplace. More than 80 percent of the world's trade travels by water and 75 percent travel through crucial choke points, which are international straits and canals.¹⁵ To better understand the huge impact on

global trade, more than 20,000 ships and 12 percent of the world's petroleum pass through the Gulf of Aden and Suez Canal and the Indian Ocean.¹⁶ All three waterways represent the world's most active locations for pirate attacks.

The One Earth Future Foundation (OEF) estimated that Somalia piracy cost the maritime shipping industry between \$6 to \$12 billion dollars in 2010 -2011.¹⁷ Some factors contributing to the overall cost of piracy include; million dollar ransom payments, increased insurance rates, enhanced security measures, re-routing, and military operations.¹⁸ The most lucrative portion of piracy is to receive ransom payments for hijacked vessels and hostages. In 2011, 31 ransom payments were paid to Somali pirates, totaling approximately \$160 million dollars. The average ransom payment was \$5 million dollars. Due to counter-piracy activities, the success rate of pirate attacks declined from 27% in 2010 to 13% in 2011. Still the report shows an increase in both the number of attempted attacks (152 in 2010 to 189 in 2011) as well as the ransom price.¹⁹ To date, the highest ransom payment on record is \$13.5 million dollars to release the Greek flagged vessel "Irene SL," a very large crude carrier with two million barrels of oil valued at \$200 million dollars. This is equivalent to 20% of the US crude oil imports for one day.²⁰

The increasing threat of pirate attacks against ships and their crews has forced shipping companies to obtain additional insurance premiums at higher rates. The "War Risk and Kidnap and Ransom" premiums are two primary forms of piracy related insurances.²¹ War Risk premiums are for vessels transiting through "war risk areas" which includes the Indian Ocean, Gulf of Aden, Red Sea, and the Gulf of Oman.²² Kidnap and Ransom (K&R) premiums typically protect the crew, but not the vessel or

hull. Normally, shipping companies carry this kind of insurance, but higher premium rates have increased in recent years due to the ongoing threat of piracy. Assessing the global cost of piracy related to insurance is difficult to calculate. In 2011, OEF reported the estimated cost for war risk and kidnap and ransom insurance premiums was \$635 million. Their analyst used two broad ranges to calculate K&R premium prices: “low and slow vessels (tankers)” and “high and fast (container)” vessels. Because the “low and slow” vessels are at greater risk the average K&R policy cost is \$15,000 to \$20,000 per transit. The “high and fast” vessel K&R policy cost is \$5,000 to \$10,000 per transit.²³

Since 2011, over 30 countries contributed military forces to counter piracy efforts in the Gulf of Aden and Indian Ocean. It is also extremely difficult to calculate the economic cost of military operations in the region. In order to figure military operation costs, three areas were considered from the “*big three missions*” ongoing in the region. These missions are the *European Union Naval Forces (EUNAVFOR) - Operation Atalanta*, *NATO’s Operation Ocean Shield*, and *Combined Task Force (CTF 151)*. All military efforts have ultimately been very effective at disrupting pirate attacks, but these operations come with a huge price tag to sustain. NATO officials stated that on an average there were a total of 18 vessels on duty from NATO, EUNAVFOR, and CTF 151.²⁴ The three areas to estimate cost were: administrative cost – \$22 million, vessel and aircraft operational cost - \$959 million. In addition, \$291 million was used to operate the unmanned aerial vehicles (UAV) working counter-piracy efforts in the Indian Ocean.²⁵ In 2011, the total cost for counter-piracy activities in the Horn of Africa was approximately \$1.27 billion.

Another devastating impact of Somalia piracy is the threats to humanitarian aid deliveries in the HOA that travels mostly by sea to the region. Delays or stoppage in humanitarian aid will not only lead to human catastrophe in Somalia, but also in neighboring Ethiopia. According to the U.S. Agency for International Development (USAID), more than 5 million Ethiopians required emergency food assistance in 2011. The United States has provided over \$725 million in food and humanitarian aid to Ethiopia from 2009 through 2011.²⁶ In Somalia, an estimated 2.5 million people, one third of the population required food aid. The majority of aid assistance is needed in southern and central regions, where drought has resulted in crop failures and deteriorating livestock conditions. On land, the delivery of food and humanitarian aid is hindered by an unstable security environment. Food insecurity has increased due to high food and fuel prices, prompted by severe drought and lack of security. Port security is lacking at the four major ports in Somalia to allow vessels to safely berth. The World Food Program (WFP), which ships tens of thousands of food monthly to the region, stated it has become too expensive to ship assistance to Mogadishu's port because of security concerns. As a result, the WFP had to suspend operations in southern Somalia because of the growing threat and intimidation by al-Shabaab militants. WFP has resumed operations with the assistance of EU forces escorting WFP shipments. As of January 2013, the improved security situation in the southern Somalia city of Kismayo has allowed WFP to provide food assistance for the first time in nearly four years to Kismayo's most vulnerable people, women and children.²⁷

Regional Impact

Somalia piracy is not only a threat to Somalia, but also to other countries in the region, including Yemen, which controls the southern entrance of the Red Sea, and Egypt, which controls the northern entrance via the Suez Canal.²⁸ Yemen was one of the first Arab countries to recognize the threat of maritime piracy in the region. As for Egypt, it has sustained direct repercussions as a result of piracy. It has endangered Egyptian vessels and impacted negatively on shipping through the Suez Canal. If piracy continues it will significantly reduce Egyptian revenues from the Suez Canal, which is one of the largest foreign currency income sources for Egypt. Revenue from canal receipts for vessels transiting the Suez Canal were down from 21,080 vessels passing through the waterways in 2007-2008, to just 17,054 vessels in 2009-2010 according to data from the Central Bank of Egypt.²⁹ This decline is a result of increased pirate attacks in the Gulf of Aden, which caused many shipping companies to re-route their vessels through Africa's Cape of Good Hope to avoid the potential threats.

In addition to the direct costs Somalia piracy has on industry and government, it has also severely impacted the economy in neighboring countries, like Kenya. It has disrupted their trade, tourism, and humanitarian assistance.³⁰ Kenya has suffered the greatest regional economic impact of Somalia piracy, because of their close proximity of shared borders. Kenya's maritime trade is affected by increased insurance premiums charged to ships transiting the region, a reduction of ship traffic as vessels re-route to avoid the HOA, and increased delays in delivery of goods.³¹ Kenya's major exported items, including tea, coffee, and other agricultural goods are the most threatened. Agricultural goods like mangoes, avocados and canned beans are exported by sea.

The value of these exported goods is estimated to be \$120 million per year.³² Piracy has increased the transport time of these goods. Dr. Stephen Mbithi, Chief Executive of the Fresh Produce Exporters Association of Kenya (FPEAK) indicated that it now takes an average of seven more days to transport goods to Europe from Kenya, which translates into increased transportation cost.³³

The most alarming trend is Somalia pirates traveling by sea or land to kidnap western tourist from Kenyan beach resorts. The 2011 incident in Kenyan shows how deadly these attacks can be. Somalia gunmen entered the Kenya Resort Kiwayu Safari Village and killed tourist David Tebbutt, and kidnapped his wife, Judith Tebbutt. Mrs. Tebbutt was held hostage for nearly six months until her ransom payment of \$1.1 million was paid to alleged Somalia pirates.³⁴ Following several abductions of western tourists, the Australian, Canadian, France, New Zealand, UK, and US governments issued travel advisories to avoid Lamu Archipelago. The tourism industry is a major source of revenue for Kenya, which accounts for approximately 12% GDP, or \$3.85 billion annually. In 2010, over a million international tourists traveled to Kenya, the largest proportion from United Kingdom (16%) and United States (10%).³⁵ Evidence has shown these kidnappings on land are directly connected to Somalia piracy activities. Another indicator that this is true is during the monsoon season, when severe rains limit pirate activity at sea. Consequently, pirates will adjust their tactics to pursue a “softer” target on land during the season. In either scenario (land or sea), the ultimate objective for pirates is to kidnap hostages for ransom payments. The cost of Somalia piracy on Kenya’s tourism is between \$129 and \$795 million in revenue lost and 3% - 20% in jobs lost.³⁶

Somalia is still considered a dangerous and unsafe location for western aid organizations to open offices in the region. As a result, many aid organizations run Somali related operations from Nairobi and elsewhere in Kenya.³⁷ The Dadaab camp located in Kenya is one of the largest refugee camps in the world, which houses approximately 440,000 refugees. The camp is situated 100 kilometers from the Kenya/Somalia border. Due to severe drought and increased conflicts, the camp received about 1300 Somali refugees daily in 2011. Another intimidating effect of Somali piracy is the targeting of humanitarian aid workers. Somali militants with direct links to either pirate groups or al- Shabaab extremists have kidnapped or even killed humanitarian aid workers along the Kenya/Somalia border. These tragic events have forced one of the largest international NGO's operating in Kenya, Medicins Sans Frontier (Doctors Without Borders) to pull personnel from these dangerous areas, even though these locations were in dire need of humanitarian aid.³⁸ The mission was too risky to jeopardize anymore personnel. The implication of aid organizations stopping operations in the region, during the worst drought to Somalia and the HOA in sixty years, is a humanitarian tragedy.

As Somalia piracy impacts humanitarian efforts in Kenya, it will also reduce foreign currency into the country, if there is a mass evacuation of NGO workers. The US Department of State estimates that roughly 15,000 Americans have registered with the US Embassy as residents of Kenya. Approximately 70% of these individuals participate in charity work throughout the country. New foreign workers represent a new source of foreign revenue for Kenya's economy, because each employee must pay for accommodations, food and clothing, transportation, and leisure activities. For example,

UN employees' annual housing stipend in Nairobi, Kenya totals \$226 million.³⁹ Kenya's economy would take an enormous loss in revenue if there is a massive exit of foreign nationals due to continued instabilities related to Somalia piracy.

United States Response to Piracy

Piracy off the coast of Somalia threatens one of the principal foundations of today's modern international global economic systems, which is the freedom of navigation on the high seas. During 2007 through 2008 maritime piracy escalated dramatically off the coast of Somalia and caused the U.S. and the International community to take notice and action. One major turning point of U.S. involvement in countering piracy was the hijacking of U.S. flagged ship Maersk Alabama in April 2009. This well publicized incident involved U.S. Navy SEAL rescue operations of Captain Richard Phillips and the killing of 3 Somalia pirates; these actions have represented the United States commitment to repress piracy in this region.⁴⁰ While the outcome was triumph for America, official in many countries plagued by pirate attacks said it was not likely to discourage the pirates.⁴¹ The U.S. Department of State response to piracy off the coast of Somalia states, "*That fighting piracy is a vital element of the United States strategy objectives in Somalia, which are to help this fragile nation to regain stability, eliminate terrorism, and respond to the humanitarian needs of its people.*"⁴²

The 2005 *National Strategy for Maritime Security* declares U.S. interest in maritime security and recognizes that nations have a common interest in achieving two objectives: *to facilitate the vibrant maritime commerce that underpins economic security, and to protect against ocean related terrorist, hostile, criminal, and dangerous acts, including piracy.*⁴³ It mandates "full and complete national and international coordination,

cooperation, and intelligence and information sharing among public and private entities to protect and secure the maritime domain”.⁴⁴ In June 2007, President George W. Bush appended this strategy, adding Annex B – *Policy for the Repression of Piracy and Other Acts of Violence at Sea*.⁴⁵ This policy reflects the U.S. commitment to coordination and cooperation with other nations, regional and international actors, and the maritime industry in order to deter and disrupt piracy activities. The U.S. and their international partners will use diplomatic, military, intelligence, economic, law enforcement, and judicial actions to repress piracy.

The implementation plan for this strategy was achieved through the creation of the *2008 National Security Council, Countering Piracy off the Horn of Africa: Partnership & Action Plan (CPAP)*. CPAP consist of three lines of action and embedded within these actions are five essential implementation pillars: (1) prevent private attacks by reducing the vulnerability of the maritime domain to piracy; (2) disrupt acts of piracy consistent with international law and the rights and responsibilities of coastal and flag states; and (3) ensure that those who commit acts of piracy are held accountable for their actions by facilitating the prosecution of suspected pirates by flag, victim and coastal states, and in appropriate cases, the United States.⁴⁶ The five pillars are improving operational and intelligence support to counter-piracy operations, strengthening judicial frameworks for detention and prosecution, disrupting the pirates’ financial networks, reinforcing commercial shipping self-defense capabilities, and pursuing diplomatic and public efforts to discourage piracy.⁴⁷ To achieve success with this strategy and plan, the U.S. must not act alone in these efforts. We must have an effective global partnership of all

interested nations, because most of the world's maritime domain is under no single nation's sovereignty or jurisdiction.

The oversight of the CPAP is managed by an interagency Counter-Piracy Steering Group, which is co-chaired by the Department of State and Defense. The inter-agencies represented include Departments of Homeland Security, Justice, Treasury, Transportation, and the U.S. Agency for International Development.⁴⁸

Military Operations

Limited naval anti-piracy operations began in 2006, following the November 2005 attack of the U.S. owned cruise liner *Seabourn Spirit*. Since this time, three consistent military naval operations have actively repressed piracy in this region. The U.S. Navy and U.S. Coast Guard provide persistent interdiction through presence maritime forces and coordinated counter-piracy activities with other military forces operating in the region. *Combined Task Force (CTF) 151* is a multinational task force established in January 2009 to conduct counter-piracy operations under a mission based mandate through Combined Maritime Forces (CMF) area of responsibility to actively deter, disrupt, and suppress piracy in the Gulf of Aden and off the eastern coast of Somalia.⁴⁹ This is a spin off from the 2001 CTF mission, which was a part of Operation Enduring Freedom (OEF) to track possible AL Qaeda and related movements between Pakistan and the Horn of Africa.⁵⁰

In December 2008, the European Union (EU) launched the *EU Naval Force Somalia – Operation Atalanta (EUNAVFOR)*. It was the first EU naval operation under the framework of the Common Security and Defence Policy (CSDP).⁵¹ EUNAVFOR is tasked with providing protection to WFP and merchant vessels and authorized to

“employ the necessary measures, including use of force, to deter, prevent, and intervene in order to bring end to acts of piracy and armed robbery which may be committed in the areas where they are present”.⁵² The EU Council has extended the EUNAVFOR mandate until December 2014. The North Atlantic Treaty Organization (NATO) has deployed two Standing NATO Maritime Groups (SNMG) to conduct anti-piracy operations in the HOA. Their first mission, *Operation Allied Provider*, provided protection to WFP vessels, but now this mission has transferred to EUNAVFOR. Their current mission, *Operation Ocean Shield*, is responsible to deter and respond to piracy, while participating in capacity building efforts with regional governments.⁵³ Like the EU, NATO has extended its mandate until December 2014. On any given day up to 30 vessels and 20 nations are engaged in counter-piracy operations in the region, including new countries like China, Indian, and Japan.⁵⁴ These various naval powers symbolizes international partnership capacity that is actively involved to deter, disrupt, and repress piracy, so the world’s waterways are secured for global economy prosperity for all nations.

Diplomatic and Regional Response

As military operations continue to repress piracy, the United Nations has adopted a series of UN Security Council (UNSC) resolutions to assist in these efforts. As indicated in the UN Charter, the UN Security Council is responsible for international peace and security. These authorities have provided international legitimacy and the necessary legal tools to implement the various pillars of the U.S. strategy to deter and disrupt Somalia piracy activities in the region.⁵⁵ These UNSC resolutions include 1816 (2008), the first Somalia piracy resolution, which authorized naval forces to enter Somalia

territorial waters in pursuit of piracy; 1838 (2008), which authorized states to suppress piracy and reaffirm the UNCLOS; 1846 (2008), which authorized states to criminalize piracy and to implement their obligations under *Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA)*; and 1851 (2008), which authorized the creation of the Contact Group on Piracy off the Coast of Somalia (CGPCS) and encouraged international counter-piracy cooperation.⁵⁶ After these initial four resolutions, the UN Security Council has adopted a total of 12 UNSC resolutions to repress Somalia piracy. Other diplomatic responses include the signing of the Djibouti Code of Conduct, which is a central instrument in the development for onshore regional capacity building for the purpose of combating piracy in the region.⁵⁷

Puntland and Somaliland are leading the efforts on land to deter, disrupt, and prosecute pirates that use their land as safe havens for pirate networks; both governments have established counter-piracy forces in an effort to intercept and detain pirates. Puntland seems to have achieved some success with the creation of the Puntland Maritime Police Force (PMPF). These local initiatives to combat piracy onshore align with the expressed interests of the international community.⁵⁸ This was evident in resolution 1976 (2011), where the UN Security Council recognizes the vital importance of local and regional actor's engagement to combat piracy and encouraged the previous Somalia's Transitional Federal Government to emulate counter-piracy actions of other regional governments. This resolution also advocates support to the development of land-based coastal monitoring, investigating and prosecuting, those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks.⁵⁹ Despite recent successes, Puntland and other local actors are still constrained by limited

resources, untrained personnel and inadequate assistance to improve governance, infrastructure, stability, law enforcement, maritime infrastructure, and judicial capabilities.

Challenges

The joint efforts by the international community and private sector to counter piracy off the coast of Somalia have achieved initial success. The International Maritime Organization (IMO) has reported a sharp decline in pirate attacks and hijackings in 2012 compared to 2011. Despite these accomplishments, challenges still remain. These challenges include; the local conditions in Somalia, the different actors involved in counter piracy activities, and the lack of jurisdiction to prosecute pirates. Somalia's local conditions have allowed piracy to flourish. The lack of law enforcement authority, a weak political and legal framework, cultural acceptance and the chance of pirate's profit all contribute to the local conditions. Yet the most important local condition is the immense size of the operational area in which Somalia piracy occurs.⁶⁰ The Gulf of Aden is the size of the State of California, but combined with Somali basin and parts of the Western Indian Ocean, the size of the area in which pirates operate is over 2 million square nautical miles (the size of Western Europe).⁶¹ From a tactical level, this is an operational disadvantage for naval forces patrolling the area. They are unable to cover the entire space and therefore, are restricted to certain areas in the region. Also, the area on land where pirates operate their base camps is difficult to track. Somalia has the longest coastline in Africa and pirates use this to their advantage. They operate from different villages along the coast to support their pirate operations. These base camps are usually temporary, so maritime forces have a hard time anticipating the expected

routes the pirates take from land into the Gulf of Aden, Somali Basin and Western Indian Ocean.⁶² Somali piracy is clearly transforming into a highly professional and sophisticated criminal activity, which makes the fight against piracy a complex operation.

The number of actors participating in counter-piracy activities is a challenge from an operational perspective. At any given time 20 different countries, along with private security firms are engaged in counter-piracy operations in the region, which can impede coordination efforts. Even with the current mechanism in place for coordination, there are still political and technical obstacles that remain in the way. These can vary from building a common operational picture, intelligence sharing and data exchange to deconflicting tasks and different rules of engagement. Private security firms (PSF) can be problematic, because their reputation of being trigger-happy cowboys, which could result in an escalation of violence at sea. From a legal and policy concern, many countries do not have clear legal guidelines on the use of armed security teams. Other concerns include who they report to, the scope of their operation, and when they can and should use deadly force. However, the one common goal for all actors involved is to deter, disrupt and defeat Somalia piracy.

Finally, the lack of an effective legal framework to prosecute and convict pirates in Somalia remains absent. The current Somali government does not have a legal system in place that is recognized within the international community; therefore, almost all pirate prosecutions take place in other countries like Seychelles, France, and Kenya. While UNCLOS defines piracy as a universal crime and gives sovereign nations the right to seize and prosecute pirates, many countries lack the specific laws and resources to deal with them.⁶³ Initially, pirates that were caught were simply set free.

The international community followed a “catch and release” policy, with the aim of disrupting the pirates rather than going through the complicated process of prosecution. Slowly, progress has been made to deter piracy through effective apprehension, prosecution and incarceration of pirates and their supporters. According to the 2012 October UN Security Council report, there are 1,186 individuals suspected of piracy either prosecuted or awaiting prosecution in 21 different countries.⁶⁴ The long term solution is to develop the judicial system and prison capacity in Somalia, so that Somali authorities can prosecute and incarcerate convicted pirates at home.

Recommendations

The long term solution to piracy is the reestablishment of stability in Somalia. Many scholars and military officials who are experts on Somalia piracy have stated the ultimate solution to eradicate piracy begins ashore in Somalia. While this solution is the correct approach, it will be an extremely long undertaking to bring peace, security, and governance to Somalia. U.S. and UN officials agree that a sustainable solution to the threat of piracy off the Horn of Africa would require a combination of efforts to improve security, governance, the rule of law, and economic opportunity in Somalia.⁶⁵ The end of the eight year Transitional Federal Government (TFG), the election of a new president and parliament, and the adoption of a new constitution all show promising signs for Somalia. It will take time for the new central government to build capacity to deal with their social, legal, economic, and security challenges, therefore the U.S. and International partners must stay committed in their efforts to repress Somalia piracy.

History has shown international interventions in Somalia have failed and Somalis still have a negative view of foreigners, especially the U.S. trying to impose their

authority to fix Somali problems. Many Africans feel the only way to solve Somalia problems lies within Africa. Since 2007, the only mission making progress in Somalia is the African Union Mission in Somalia (AMISOM). Last year, AMISOM forces made remarkable improvements in security by defeating and disrupting Al-Shabaab terrorists' activities and recapturing the capital city Mogadishu. AMISOM's mandate supports the implementation of national security plans through the following: training security forces; providing protection to the Federal Government to help it carry out its functions and ensure security for key infrastructure; improve security conditions for the provision of humanitarian assistance; and seek to develop an effective approach for civilian protection.⁶⁶ The UN Security Council has acknowledged the contributions AMISOM is making to lasting peace and stability in Somalia, noting its critical role in improving the security situation in Mogadishu and other areas of south-central Somalia, including Kismayo. In order for Somalia to continue its roadmap for stability and development, the UN Security Council extended AMISOM's mandate until February 28, 2014. This extension reaffirms the U.S. and UN commitment that only Africa can solve Somalia problems.

The United States Africa Command (AFRICOM) strategy is fully aligned with key elements of U.S. foreign policy and the Defense Strategic Guidance. The strategy's focus is building the security capacity of African partners by two guiding principles: a safe, secure, and stable Africa is in the U.S. national interest; and enabling Africans to address Africa's security challenges through focused security engagements.⁶⁷ Their objectives for maritime security in the region include developing maritime domain awareness, increasing response capabilities, and fostering regional integration and

cooperation.⁶⁸ One noticeable success has been the maritime partnership program - Africa Partnership Station (APS). This program helps regional partners build maritime security capacity to manage their territorial waters, combining aspects of maritime security across the civil and military domains. So far, APS engagements have involved 21 nations and trained more than 8,000 maritime security professionals.⁶⁹ Presently, Somalia lacks maritime capability and capacity to effectively address piracy. However, through AFRICOM's security assistance programs, Somalia will eventually increase maritime domain awareness and security.

Private industry has played a critical role in counter piracy efforts to deter and prevent pirate attacks. The widespread adoption of Best Management Practices (BMPs) has had significant positive results. Data has shown that any ship with an armed private security team on board has either stopped an attempted hijacking or deters pirates with their presence. If private industry presents an opportunity to address challenges on land, where the international community is reluctant to commit forces, then policy barriers in this investment need to be reevaluated. Clear guidelines, rules, and regulations for activities on land should be established, and a substantive oversight and accountability system created.⁷⁰ Finally, there must be a consensus from the African Union and regional partners, to include authorities created by the United Nations to guarantee potential success.

Conclusion

The United States has pursued a multi-dimensional approach that focuses on diplomatic engagement, military power, collaboration with the private sector, legal enforcement, and targeting pirate networks to repress Somalia piracy. These efforts have successfully addressed two lines of action indicated in U.S. National Security Council's *Countering Piracy off the Horn of Africa: Partnership and Action Plan*; prevent pirate attacks by reducing the vulnerability of the maritime domain to piracy; and disrupt acts of piracy consistent with international law and the rights and responsibilities. The third line of action, the prosecution of pirates, remains a critical step toward addressing piracy. To make piracy less attractive and avoid the perception of impunity, capable judicial systems still need to be established in Somalia. Finally, the long term solution to defeating piracy lies within Somalia. Once Somalia has a viable government capable of solving their economic, social, and security issues, piracy will fade away.

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